

SENATE BILL REPORT

EHB 1815

As of April 8, 2009

Title: An act relating to current use valuation under the property tax open space program.

Brief Description: Concerning current use valuation under the property tax open space program.

Sponsors: Representatives Sullivan, Orcutt, Hinkle, Simpson, Blake, Kristiansen, Haigh, Ericks, Van De Wege, Hope, Newhouse, Roach, Armstrong, Morrell, Takko, Campbell, McCune and Rolfes.

Brief History: Passed House: 3/06/09, 95-0.

Committee Activity: Agriculture & Rural Economic Development: 3/16/09, 3/24/09 [DPA-WM].

Ways & Means: 4/06/09.

SENATE COMMITTEE ON AGRICULTURE & RURAL ECONOMIC DEVELOPMENT

Majority Report: Do pass as amended and be referred to Committee on Ways & Means.

Signed by Senators Hatfield, Chair; Ranker, Vice Chair; Schoesler, Ranking Minority Member; Becker, Haugen, Morton and Shin.

Staff: Bob Lee (786-7404)

SENATE COMMITTEE ON WAYS & MEANS

Staff: Dianne Criswell (786-7433)

Background: The State Constitution allows the Legislature to enact legislation to determine the assessed valuation for property tax purposes of certain types of real property based on its current use. Two programs of current use valuation have been established: one program for forest lands; and a second program that includes open space lands, farm and agricultural lands, and timber lands.

Farm and agricultural lands must be devoted primarily to commercial agricultural purposes. To qualify for classification as farm and agricultural land, land parcels between five acres and 20 acres must generate at least \$200 per acre of gross income for three of five years.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The Department of Revenue (DOR) rules, adopted to administer the open space current use laws, require that the income be from commercial agricultural production in order to meet the income requirement. Commercial agricultural activities include intensive cultivation of Christmas trees or short-rotation hardwoods.

If the property no longer satisfies the criteria for classification, the assessor notifies the owner in writing that the property will be removed from the program. When the property is removed from current use classification, back taxes plus interest must be paid. For open space categories, back taxes represent the tax benefit received over the most recent seven years. There are some exceptions to the requirement for payment of back taxes.

Summary of Bill (Recommended Amendments): A parcel of land between five to 20 acres with standing crops that have an expectation of harvest within seven years, or 15 years in the case of short-rotation hardwoods, is eligible for current use valuation under the farm and agriculture program if at least \$100 or more per acre of investment is made in the current or previous year. Standing crops were defined to include Christmas trees, vineyards, fruit trees, or other perennial crops, planted by normal agricultural methods used in commercial production of the particular crop, which do not typically produce harvestable quantities in the initial years after planting.

When the assessor notifies the property owner that the property no longer qualifies for current use assessment, then the assessor will provide information on appeal procedures, including timelines, petition forms, and county board of equalization contact information.

EFFECT OF CHANGES MADE BY AGRICULTURE & RURAL ECONOMIC DEVELOPMENT COMMITTEE (Recommended Amendments): Standing crops were defined to include Christmas trees, vineyards, fruit trees, or other perennial crops planted by normal agricultural methods used in commercial production of the particular crop, which do not typically produce harvestable quantities in the initial years after planting. Retained were the provisions of expectation of harvest within seven years and the requirement of a demonstrable investment.

The location of taxpayer notice provisions was moved to apply to more situations where land is determined to no longer qualify for classification.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Engrossed House Bill (Agriculture & Rural Economic Development): PRO: A Christmas tree farm on seven and one-half acres no longer qualified and had to pay back taxes and interest because no trees were sold for a

couple years and, thus, did not meet the specific income requirements for three of five years. It takes a few years for small Christmas tree seedlings to become salable.

Other perennial crops such as fruit trees, cranberries, and asparagus are in the same position as Christmas trees. They are agricultural crops but take a few years after planting before they start producing income. The DOR has said they will hold meetings with stakeholders to resolve open spaces issues and that the bill should be passed as is.

OTHER: Providing a definition of standing crop to include Christmas trees, vineyards, and fruit trees would help to clarify the intended scope of the bill.

Persons Testifying (Agriculture & Rural Economic Development): PRO: Brad Tower, Washington Christmas Tree Growers Association; Dan Wood, Washington State Farm Bureau.

OTHER: Robert Carlton, Washington Association of County Assessors.

Staff Summary of Public Testimony on ARED Recommended Amended Bill (Ways & Means): PRO: The committee amendment by Senate Committee on Agriculture & Rural Economic Development to define "standing crops" is a positive change to provide consistency in the 39 counties in the administration of the property tax. Without such a definition, more local monitoring is necessary. Properties in the Open Space Act programs used for commercial agriculture are being impacted as encroachment of development increases land values. There are many Christmas tree farms in these areas, and it is difficult to maintain the income requirements when the harvest cycles are five to seven years after planting. This bill makes the administration of the farm and agriculture current use category easier for property owners and local governments.

Persons Testifying (Ways & Means): PRO: Dianne Dorey, Lewis County Assessor; Robert Carlton, Washington Association of County Assessors; Brad Tower, Washington Christmas Tree Growers Association.